

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8361 of 2004

DATED:1.8.2005

Between:

The Prudential Cooperative Bank Ltd.

...Petitioner

And

K. Shanker and others

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.8361 OF 2004

ORDER:

The Prudential Cooperative Bank Limited, Secunderabad, assails the order of the A.P.Cooperative Tribunal, Hyderabad insofar as the same reduces rate of interest

on the amount payable from 22% to 6% per annum. It is the case of the petitioner bank that on a petition filed by the bank for recovery of the amount from the borrowers with subsequent interest at 22% per annum, the same was decreed by the Tribunal for recovery of the amount with subsequent interest at 6% per annum. Assailing the same the present writ petition is filed.

A learned Single Judge of this Court (Goda Raghuram, J) in **A.P.State Cooperative Bank Ltd. V. Cooperative Tribunal, Hyderabad**, considered the issue whether Cooperative Tribunal is empowered to invoke and rely on the provisions of Section 34 of Code of Civil Procedure, 1908 to scale down the interest contrary to the agreement between parties. His Lordship after elaborate discussion of the issue, held that the Cooperative Tribunal constituted under Section 75 of the Act is denuded of any such power to interfere with rate of interest that is owed by a debtor to company like petitioner. The question raised in this Writ Petition is therefore squarely covered by said judgment. The learned counsel for contesting respondents does not dispute the legal position.

Following the same, the Writ Petition is allowed modifying the impugned order and further observing that petitioner bank shall be entitled to recover the interest from the borrowers as per the award/certificate issued by competent authority under the Act.

The Writ Petition is accordingly allowed.

(V.V.S.RAO, J)

1.8.2005

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